

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE

S.T.A.R. CONCRETE PUMPING  
CO., INC.

DEBTOR

§  
§  
§  
§  
§  
§

CASE NO. 11-36328-H1-11

CHAPTER 11

**DEBTOR'S EMERGENCY MOTION TO ALLOW PAYMENT OF PRE-PETITION  
CLAIMS RELATED TO EMPLOYEES AND INSURANCE COVERAGE**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN TWENTY-ONE (21) DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

S.T.A.R. Concrete Pumping Co., Inc., Debtor and Debtor-In-Possession in the captioned Chapter 11 case ("Debtor"), hereby files this Emergency Motion to Allow Payment of Pre-Petition Claims, and in support thereof, would respectfully show unto the Court the following:

**A. Factual and Procedural Background**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2).
2. Venue is property in this Court pursuant to 28 U.S.C. §§1408 and 1409.
3. On July 27, 2011, ("Filing Date"), Debtor filed a voluntary petition under Chapter 11 of Title 11 of the United States Code ("Bankruptcy Code").

4. Since the Filing Date the Debtor has continued to operate and manage its business pursuant to §§1107 and 1108 of the Bankruptcy Code.

5. As of the date of this motion, no official committee of unsecured creditors has been appointed.

6. The Debtor is a Tomball-based company specializing in concrete pumping services. As part of its business operations the Debtor employs approximately 60 persons, all of whom are full time employees. No single employee is owed in excess of the \$11,725 statutory cap imposed by 11 U.S.C. §507(a) for prepetition services rendered.

7. The Debtor's payroll is administered by ADP. Payments to ADP are funded by the Debtor's payroll account located at Central Bank (Acct # XXXX6751). At the time of filing the payroll for the time period of July 17, 2011 to July 23, 2011 in the total aggregate amount of \$70,710.61 was due for wages and taxes ("Payroll Claims"). See attached **Exhibit A**. The Debtor has submitted payment of these amounts to its payroll service on July 26, 2011, but the funds therefore were not drafted from the Debtor's account pre-petition. The highest wage claim to be paid is approximately \$2,400.00, with the average claim being approximately \$1,150.00. A more detailed payroll detail will be provided at any hearing on this motion and is not included herein due to privacy and competitiveness concerns.

8. As part of its liability insurance coverage the Debtor maintains Worker's Compensation Insurance with Texas Mutual. As of the petition date the sum of \$7,043.00 was due for June and July 2011 insurance premiums ("Worker's Compensation Premiums"). See **Exhibits B and C**.

9. As part of its workers' benefits programs the Debtor maintains health insurance coverage for eligible employees with Blue Cross Blue Shield. At the time of filing the July 2011

premium for this coverage in the amount of \$24,372.53 was due, but unpaid (“Health Insurance Premiums”). See attached **Exhibit D**.

**B. Request for Payment of Prepetition Claims**

10. Pursuant to Bankruptcy Code §§105(a), 363, 507(a), 541, 1107 and 1108, the Debtor requests the authority (but not obligation), in its discretion and in the exercise of its business judgment to pay or continue to pay the following:

(A) **Payroll Claims**: In order to preserve the value of the estate and minimize the undue economic hardship that would undoubtedly befall any employee if they were not paid the Debtor requests authority to pay the Payroll Claims. Also, payment of the Payroll Claims are necessary to maintain employee stability, morale and prevent the likely result in the loss of employees. Loss of employees will negatively affect the Debtors to meet its current and future contractual responsibilities. Accordingly the Debtor requests authority to pay the Payroll Claims, including all tax obligations related thereto. The Debtor also requests authority to pay post-petition payroll in the ordinary course of business;

(B) **Worker’s Compensation Premiums**: The Debtor’s ability to maintain current jobs and obtain future work is dependent on having appropriate insurance coverage. Customers will not allow the Debtor onto its jobsite absent adequate insurance. If the Worker’s Compensation Premiums are not paid coverage will lapse. Therefore, the Debtor requests authority pay the June and July 2011 Worker’s Compensation Premiums. Post-petition Worker’s Compensation Premiums will be paid in the ordinary course of business and the Debtors requests approval thereof;

(C) **Health Insurance Premiums**: Payment of this Health Insurance Premium is critical to maintaining health insurance coverage for the Debtor’s employees. Should the payment not be made coverage would lapse leaving workers uncovered by health insurance. A lapse in health insurance coverage is potentially devastating to employees. Further, a lack of insurance coverage will likely lead to employees terminating their employment resulting in a loss of experienced help thereby impeding the Debtor’s ability to generate income at a critical time.

**C. Emergency Consideration/Hearing Requested**

11. Based on the foregoing allegations regarding the immediacy of the payment requests the Debtor posits that an emergency hearing thereon is appropriate, or, alternatively emergency consideration.

WHEREFORE based on the foregoing the Debtor requests that it be allowed to pay the above described pre-petition claims and for such other and further relief to which it may show itself to be entitled.

Respectfully Submitted,  
S.T.A.R. CONCRETE PUMPING CO., INC.

/s/ Marc Douglas Myers

By: \_\_\_\_\_

Marc Douglas Myers  
State Bar No. 00797133  
ADAIR & MYERS, P.L.L.C.  
3120 Southwest Freeway, Suite 320  
Houston, Texas 77098  
(713) 522-2270; (713) 522-3322 Fax

### **CERTIFICATE OF ACCURACY**

I certify that the foregoing motion was filed after a good faith investigation of the facts stated therein.

/s/ Marc Douglas Myers

\_\_\_\_\_  
Marc Douglas Myers

### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing has been served on the Debtor, Counsel for the Debtor, the US Trustee, the twenty largest unsecured creditors and all parties requesting notice via regular US mail, unless otherwise served by the CM-ECF system on July 28, 2011.

/s/ Marc Douglas Myers

\_\_\_\_\_  
Marc Douglas Myers

S.T.A.R. Concrete Pumping  
Co., Inc.  
24223 FM 2978 Road  
Tomball, TX 77375

United States Trustee  
Attn: Nancy Holley  
515 Rusk, Ste 3516  
Houston, Texas 77002

People's United Equipment  
Finance Corp

c/o Robert Grawl, Jr.  
1300 Post Oak Blvd., Suite  
1300  
Houston, Texas 77056

Texas Comptroller  
P. O. Box 13528  
Austin, Texas 78711

Harris County  
c/o Tara Grundemeier  
1300 Main, Suite 300  
Houston, Texas 77002

Harris County Tax  
1300 Main, Suite 300  
Houston, Texas 77002

Internal Revenue Service  
P. O. Box 21126  
Philadelphia PA 19114

707 MANAGEMENT  
SERVICES, INC.  
417A Beryl Street  
Redondo Beach CA 90277

BARNES DISTRIBUTION  
Dept. CH 14079  
Palatine IL 60055-4079

BLUE CROSS BLUE  
SHIELD OF TEXAS  
P.O. Box 660049  
Dallas TX 75266-0049

CHERYL JOHNSON  
GALVESTON CO TAX  
ASSESSOR  
722 Moody

Galveston TX 77550  
CONSTRUCTIONFORMS,  
INC.  
PO Box 308  
Port Washington WI 53074

WORLD WIDE PARTS &  
EQUIPMENT  
9240 Bryant Street  
Houston TX 77075

CROSBY MECHANICAL  
SERVICES, INC.  
9519 Monroe Street  
Houston TX 77075

DON SUMNERS TAX  
ASSESSOR COLLECTOR  
P.O. Box 3547  
Houston TX 77253-3547

FUELMAN / FLEETCOR  
TECHNOLOGIES  
P.O. Box 11407, Drawer  
0975  
B i r m i n g h a m A L  
35246-0975

HERMAN POWER TIRE  
SERVICE  
2308-1 N John Redditt  
Lufkin TX 75904

J. SHANE HOWARD TAX  
ASSESSOR  
P.O. Box 2112  
Beaumont TX 77704-2112

KRISTEEN ROE, TAX A/C  
300 E. WM. J. Bryan Pkwy  
Bryan TX 77803-5397

L U B E M A S T E R  
CONSTRUCTION  
P.O. Box 971269  
Dallas TX 75397-1269

P U T Z M E I S T E R  
ADVANTAGE PLUS  
CH Capital, Dept 10460  
Palatine IL 60055-0460

S C H A E F F E R S  
S P E C I A L I Z E D  
LUBRICANTS  
102 Barton Street  
St. Louis MO 63104

S U N C O A S T  
RESOURCES, INC.  
P.O. Box 202603  
Dallas TX 75320

T R U C K P A R T S  
SPECIALISTS  
75 Remittance Drive, Suite  
1225  
Chicago IL 60675-1225

UNIFIRST HOLDINGS, LP  
9019 Railwood Drive  
Houston TX 77078

<b>Liability</b>	<b>Taxes Debited</b>				
<b>Recap</b>		Federal Income Tax		8,700.32	
		Earned Income Credit Advances		.00	
		Social Security - EE		2,742.05	
		Social Security - ER		4,047.80	
		Social Security Adj - EE		.00	
		Medicare - EE		946.63	
		Medicare - ER		946.66	
		Medicare Adj - EE		.00	
		COBRA Premium Assistance Payments		.00	
		Federal Unemployment Tax		27.71	
		State Income Tax		.00	
		State Unemployment Insurance - EE		.00	
		State Unemployment/Disability Ins - ER		403.22	
		State Unemployment Insurance Adj - EE		.00	
		State Disability Insurance - EE		.00	
		State Disability Insurance Adj - EE		.00	
		Workers' Benefit Fund Assessment - EE		.00	
		Workers' Benefit Fund Assessment - ER		.00	
		Local Income Tax		.00	
		School District Tax		.00	
		<b>Total Taxes Debited</b>	Acct. No. <b>XXX6751</b>	Tran/ABA <b>XXXXXXXXXX</b>	<b>17,814.39</b>
<b>Other Transfers</b>	ADP Direct Deposit	Acct. No. <b>XXX6751</b>	Tran/ABA <b>XXXXXXXXXX</b>		48,131.07
	ADP Check	Acct. No. <b>XXX6751</b>	Tran/ABA <b>XXXXXXXXXX</b>		3,633.18
	Wage Garnishments	Acct. No. <b>XXX6751</b>	Tran/ABA <b>XXXXXXXXXX</b>		1,131.97
	<b>Total Amount Debited From Your Accounts</b>				<b>70,710.61</b>
<b>Bank Debits and Other Liability</b>	Adjustments/Prepay/Voids				.00
<b>Taxes - Your Responsibility</b>	None This Payroll				
					<b>70,710.61</b>

**Total Liability****70,710.61****70,710.61****70,710.61**

<b>Net Pay</b>	Checks	3,633.18	
	Direct Deposits	48,131.07	
	<b>Subtotal Net Pay</b>		<b>51,764.25</b>
	Adjustments	.00	
	<b>Total Net Pay Liability (Net Cash)</b>		<b>51,764.25</b>

Taxes		You are responsible for Depositing these amounts		Amount debited from your account		
Federal	Agency Rate	EE withheld	ER contrib.	EE withheld	ER contrib.	
	Federal Income Tax			8,700.32		
	Earned Income Credit Advances					
	Social Security			2,742.05	4,047.80	
	Medicare			946.63	946.66	
	Federal Unemployment Tax				27.71	
	<b>Subtotal Federal</b>			<b>12,389.00</b>	<b>5,022.17</b>	<b>17,411.17</b>
	Cobra Premium Assistance Payments					
	<b>Total Federal</b>			<b>12,389.00</b>	<b>5,022.17</b>	<b>17,411.17</b>
<b>State</b>	TX State Unemployment/Disability Ins-ER 7.5100				403.22	
	<b>Subtotal TX</b>				<b>403.22</b>	<b>403.22</b>
	<b>Total Taxes</b>	<b>.00</b>	<b>.00</b>	<b>12,389.00</b>	<b>5,425.39</b>	<b>17,814.39</b>
<b>Amount ADP Debited From Account XXX6751</b>		<b>Tran/ABA XXXXXXXXX</b>				<b>17,814.39</b>

Excludes Taxes That Are Your Responsibility

<b>Other</b>	ADP Direct Deposit	48,131.07	
<b>Transfers</b>	ADP Check	3,633.18	
	Wage Garnishments	1,131.97	
<b>Amount ADP Debited From Account XXX6751</b>		<b>Tran/ABA XXXXXXXXX</b>	<b>52,896.22</b>
<b>Total Amount ADP Debited From Your Accounts</b>			<b>70,710.61</b>

59 Employee Transactions



# Statistical Summary Detail

## STAR CONCRETE PUMP

Company Code: **F29**

Region Name: SOUTH CENTRAL

Batch : **4235**Quarter Number: **3**Service Center: **062**Period Ending : **07/23/2011**Pay Date : **07/29/2011**Current Date : **07/26/2011****Week 30**

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**Texas Mutual Insurance  
Workers' Comp**

**June 2011  
Payroll**

<u>Class Code</u>	<u>Class Description</u>	<u>Adj Gross Payroll</u>	<u>Rate</u>	<u>Earned Premium</u>		
5200	Operators	\$ 67,958	5.30	3,602	60.60%	\$ 1,787.34
5213		\$ -	6.75	-		
8227	Yard	\$ 66,719	3.02	2,015	33.90%	\$ 999.88
8742	Salesmen	\$ 53,350	0.41	219	3.68%	\$ 108.54
8809	Ex Officers	\$ -	0.41	-		
8810	Clerical	\$ 41,434	0.26	108	1.81%	\$ 53.46
		\$ 229,461		5,943	100.00%	\$ 2,949.22

			<u>Factor</u>	
0930	Waiver of Subrogation	2.00%	1.0200	6,062
9812	1000/1000/1000 Increased Limit	2.00%	1.0200	6,183
9898	Experience Modifier	-13.00%	0.8700	5,379
9887	Schedule Rating Modification	-30.00%	0.7000	3,766
9874	Health Care Network Discount	-12.00%	0.8800	3,314
0063	Premium Discount	-11.00%	0.8900	2,949

<u>Month to Date Totals</u>		<u>Gross</u>	<u>Less 1/3</u>	<u>Net Wages</u>	<u>Department Totals</u>	
<b>Operators</b>		72,238.35	(4,280.37)	67,957.98	67,957.98	
Operators Pump	Pump Regular	59,267.52		59,267.52		59,267.52
	Pump Overtime	12,970.83	(4,280.37)	8,690.46		12,970.83
<b>Maintenance</b>		70,012.49	(3,293.15)	66,719.34	66,719.34	
	Yard	31,049.26		31,049.26		60,033.24
	Yard Overtime	3,168.97	(1,045.76)	2,123.21		9,979.25
	Salary	-		-		
OperatorsYard	Yard Regular	28,983.98		28,983.98	-	
	Yard Overtime	6,810.28	(2,247.39)	4,562.89		9,979.25
<b>Sales</b>	Salary	53,350.02			53,350.02	
<b>G&amp;A</b>		41,434.04	-	41,434.04	41,434.04	
Dispatch	Salary	13,963.28	-	13,963.28	13,963.28	
	Overtime	-	-	-	-	
Office	Salary	27,470.76		27,470.76	27,470.76	
	Overtime	-	-	-	-	
		237,034.90	(7,573.53)	229,461.37		
	Verify Gross	237,034.90		-		



**Texas Mutual Insurance  
Workers' Comp**

**July 2011  
Payroll**

<u>Class Code</u>	<u>Class Description</u>	<u>Adj Gross Payroll</u>	<u>Rate</u>	<u>Earned Premium</u>		
5200	Operators	\$ 95,040	5.30	5,037	61.05%	\$ 2,499.62
5213		\$ -	6.75	-		
8227	Yard	\$ 91,804	3.02	2,772	33.60%	\$ 1,375.82
8742	Salesmen	\$ 74,634	0.41	306	3.71%	\$ 151.85
8809	Ex Officers	\$ -	0.41	-		
8810	Clerical	\$ 51,793	0.26	135	1.63%	\$ 66.82
		\$ 313,272		8,250	100.00%	\$ 4,094.11

			Factor	
0930	Waiver of Subrogation	2.00%	1.0200	8,415
9812	1000/1000/1000 Increased Limit	2.00%	1.0200	8,584
9898	Experience Modifier	-13.00%	0.8700	7,468
9887	Schedule Rating Modification	-30.00%	0.7000	5,227
9874	Health Care Network Discount	-12.00%	0.8800	4,600
0063	Premium Discount	-11.00%	0.8900	<b>4,094</b>

<u>Month to Date Totals</u>		<u>Gross</u>	<u>Less 1/3</u>	<u>Net Wages</u>	<u>Department Totals</u>	
<b>Operators</b>		<b>104,422.85</b>	<b>(9,382.59)</b>	<b>95,040.26</b>	<b>95,040.26</b>	
Operators Pump	Pump Regular	75,990.77		75,990.77		75,990.77
	Pump Overtime	28,432.08	(9,382.59)	19,049.49		28,432.08
<b>Maintenance</b>		<b>99,438.43</b>	<b>(7,634.03)</b>	<b>91,804.40</b>	<b>91,804.40</b>	
	Yard	37,459.00		37,459.00		76,305.02
	Yard Overtime	6,323.27	(2,086.68)	4,236.59		23,133.41
	Salary	-		-		
OperatorsYard	Yard Regular	38,846.02		38,846.02	-	
	Yard Overtime	16,810.14	(5,547.35)	11,262.79		23,133.41
<b>Sales</b>	Salary	<b>74,634.35</b>			<b>74,634.35</b>	
<b>G&amp;A</b>		<b>51,792.56</b>	<b>-</b>	<b>51,792.56</b>	<b>51,792.56</b>	
Dispatch	Salary	17,454.11	-	17,454.11	17,454.11	
	Overtime	-	-	-	-	
Office	Salary	34,338.45		34,338.45	34,338.45	
	Overtime	-	-	-	-	
		<b>330,288.19</b>	<b>(17,016.61)</b>	<b>313,271.58</b>		
	Verify Gross	330,288.19		-		



## S.T.A.R. Concrete Pumping Co., Inc.

P.O. Box 400  
Tomball TX 77377-0400

Date : 07/28/2011

Time : 2:31 PM

Page no. 1

Closing Date : 07/28/11  
Sorted by... : Vendor Code  
Ranked by... : Vendor Code  
\* Not Posted

AGING DETAIL REPORT  
ACCOUNTS PAYABLE

Codes:  
I Invoice  
D Debit  
F Finance Charge  
P Payment  
C Credit  
T Discount Taken

Invoice No.	Date	Due Date	Code	Amount	Over 90	90 days	60 days	30 days	Current	Future Due
BLUCRO	BLUE CROSS BLUE SHIELD OF TEXAS				Health Ins 8/1/08			(800) 445-2227	AP Account # 2101	
2011-07	07/01/11	07/20/11	I	21821.61				21821.61		
2011-07C	07/01/11	07/20/11	I	2550.92				2550.92		
Total				24372.53	0.00	0.00	0.00	0.00	24372.53	0.00 0.00
Grand Total				24372.53	0.00	0.00	0.00	0.00	24372.53	0.00 0.00



Remittance Address:  
 Attn: Cashier  
 Health Care Service Corporation  
 P.O. Box 060049  
 Dallas, TX 75268-0049

For All Billing Inquiries Call:  
 800-445-2227

Account:	028350 - S.T.A.R. CONCRETE PUMPING CO., INC.	
Profile:	0000453648 - ACTIVE	0897
Bill Date:	06-17-2011	Payment Due Date: 07-01-2011
Bill Period:	07-01-2011 to 08-01-2011	Page 2

# BILL SUMMARY

Previous Amount Billed

Payments

Online Bill Payment

Adjustments

NONE

Total Payments and Adjustments

Remaining Balance

Charges

Current Subscriber Fees  
 Subscriber Fee Adjustments

Total Charges

Total Amount Due

Date

Activity

Total Due

06-01-2011

(23,594.99)

\$46,546.22

.00

(\$23,594.99)

\$22,951.23

23,038.35  
 (1,216.74)

\$21,821.61

~~-\$44,772.84~~



Remittance Address:  
 Attn: Cashier  
 Health Care Service Corporation  
 P.O. Box 660049  
 Dallas, TX 75266-0049

For All Billing Inquiries Call:  
 800-445-2227

Account:	028350 - S.T.A.R. CONCRETE PUMPING CO., INC.	5374
Profile:	0000559525 - COBRA	
Bill Date:	06-17-2011	Payment Due Date: 07-01-2011
Bill Period:	07-01-2011 to 08-01-2011	Page 2

# **BILL SUMMARY**

Previous Amount Billed

Payments

Online Bill Payment

Adjustments

NONE

Total Payments and Adjustments

Remaining Balance

Charges

Current Subscriber Fees  
 Subscriber Fee Adjustments

Total Charges

Total Amount Due

Date

Activity

Total Due

06-01-2011

(2,550.92)

\$7,157.68

.00

(\$2,550.92)

\$4,606.76

2,550.92  
 .00

\$2,550.92

~~\$7,157.68~~